

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 22-43927

SHANNON L. MONTROY,

Chapter 13

Debtor.

Judge Thomas J. Tucker

**ORDER DETERMINING THAT THE DEBTOR WILL BE ELIGIBLE FOR A
DISCHARGE IN THIS CHAPTER 13 CASE, DISSOLVING SHOW-CAUSE ORDER,
AND CANCELLING JULY 28, 2022 SHOW-CAUSE HEARING**

This case is before the Court on the Court's order entitled "Order to Show Cause Why Debtor Is Eligible for a Discharge," filed on May 16, 2022 (Docket # 7, the "Show-Cause Order"). That Order stated, in relevant part:

IT IS ORDERED that, unless the Debtor(s) agree that he/she is not eligible for a discharge, the Debtor(s) and attorney for the Debtor(s) [must] appear before this Court on **July 28, 2022** at 2:00 p.m. before Bankruptcy Judge Thomas J. Tucker and show cause why she is entitled a discharge in this case.

(Bold and underlining in original) (footnote omitted).

On June 20, 2022, the Debtor filed an affidavit in response to the Show-Cause Order, stating: "I[] understand that I am not entitled to a Chapter 13 discharge in this bankruptcy case." (Docket # 23.)

The Debtor received a Chapter 7 discharge in Case No. 19-53915, on July 13, 2021. That case was originally filed as a Chapter 13 case, on September 30, 2019. The case was converted to Chapter 7 on April 20, 2021. The voluntary petition in the present case was filed on May 13, 2022, more than 2 years after Case No. 19-53915 was filed. (The date of the order for relief in the present case also was May 13, 2022. *See* 11 U.S.C. § 301(b).)

Despite the Debtor's affidavit, the Court finds that under 11 U.S.C. § 1328(f), the Debtor is eligible for a discharge in this Chapter 13 case. While it is true that the Debtor received a discharge in a prior Chapter 7 case, that case was originally "filed under Chapter 13," and therefore § 1328(f)(2),¹ rather than § 1328(f)(1), applies. Because this Chapter 13 case was filed

¹ Section 1328(f) provides:

(f) Notwithstanding subsections (a) and (b), the court shall not grant a

more than 2 years after the date of the order for relief in the prior case, the Debtor is eligible for a discharge in this Chapter 13 case. Accordingly,

IT IS ORDERED that:

1. The Court determines that the Debtor will be eligible for a discharge in this Chapter 13 case.
2. The Show-Cause Order (Docket # 7) is dissolved, and the Show-Cause hearing scheduled for July 28, 2022 at 2:00 p.m. is cancelled.

Signed on July 20, 2022



/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge

discharge of all debts provided for in the plan or disallowed under section 502, if the debtor has received a discharge--

(1) in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter, or

(2) in a case **filed under chapter 13 of this title** during the 2-year period preceding the date of such order.

11 U.S.C. § 1328(f) (emphasis added).